

**REMARKS**

Reconsideration of this application is respectfully requested.

Claims 1 through 17 are pending in the application with claims 1 and 10 having been amended and new claims 15 through 17 added. The amendment to claim 1 is supported in the specification, *inter alia*, in the paragraph bridging pages 7 and 8. Support for new claim 15 can be found in claims 1, 9, and 10, as filed, and in the specification on page 14, lines 15 through 22. Support for new claim 16 can be found in claim 1 and in the Examples of the specification. Support for new claim 17 can be found on page 1, lines 5 and 6.

Claims 1-10 and 12-14 have been rejected under 35 U.S.C. 10(b) as being anticipated by Thompson et al. (Weed Science, 1996, vol. 44 no. 3, pp. 469-74.)

Claim 11 has been rejected under 35 U.S.C. 103(a) as being unpatentable over Thompson et al.

The Examiner has provided an Abstract of the Thompson et al. publication. In order to better understand the teaching of Thompson et al., Applicant has acquired a copy of the complete article referred to. A copy is enclosed for the Examiner's benefit and convenience.

Thompson et al. conducted laboratory experiments to identify adjuvants to improve absorption of imazethapyr, 2,4-D amine, and picloram by *leafy spurge*. Adjuvants (0.25% v/v) included crop oil concentrate, methylated seed oil, nonionic surfactant, organosilicones, 3:1 mixtures of acetylenic diol ethoxylates with Silwet L-77, ammonium sulfate, and 28% urea ammonium nitrate. The adjuvants were combined with <sup>14</sup>C-herbicide and commercially formulated herbicide product and *applied to leaves*.

**Amendment**  
**Appl. No. 09/769,388**

The present invention is not directed to *foliar* treatments. Rather, it is directed to compositions that are used to treat *seeds*. More particularly, the present invention relates to the use of an organosilicone in seed treatment compositions, which enhances the even coating of a pesticide and, where a pigment or dye is present, the color intensity on the seeds. Thus, the problem solved by the present invention was one of enhancing the even coating of a pesticide *on a seed* and enhancing the color intensity of the seeds. It is pointed out in the specification on page 2 at lines 16-23 that coloring treated seeds is required by law to avoid misconsumption. Currently, both dyes and pigments are used for seed coloring. Basically, the seed treatment formulation should provide uniform coverage, adequate surface adhesion, and biological efficacy. Both pigments and dyes require even coverage and deposition of the formulation and, additionally, the pigments are very expensive. To the extent that additives can be provided that will help in uniformly depositing the formulation and coloring the seed, they will have market value. This is the problem that was solved by the present invention. It is totally different from the problem investigated by Thompson et al., which was directed to determining a means for enhancing the action of herbicides against a pest that attacks *leaves*.

The present claims have now been amended to clarify that the current invention is directed to the treatment of *seeds*, not *leaves*.

Accordingly, it is requested that the rejections of claims 1-10 and 12-14 under 35 U.S.C. 10(b) as being anticipated by Thompson et al. and claim 11 under 35 U.S.C. 103(a) as being unpatentable over Thompson et al. be withdrawn.

**Amendment**  
**Appl. No. 09/769,388**

In view of the foregoing, it is submitted that this application is now in condition for allowance and an early Office Action to that end is earnestly solicited.

Respectfully submitted,

10 Feb 03  
Date

Paul J. Smith Reg. No. 30,754  
for James L. Lewis  
Reg. No. 24,732

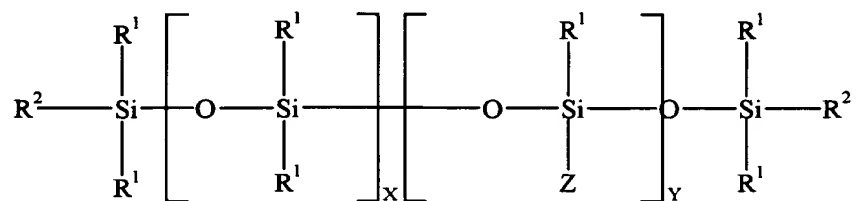
Levy & Grandinetti  
Suite 1108  
1725 K Street, N.W.  
Washington, D.C. 20006-1401

(202) 429-4560

**VERSION WITH MARKINGS TO SHOW CHANGES MADE**

**Marked up rewritten claims:**

1. (Amended) A composition comprising a seed treatment formulation comprising at least one pigment or dye and an organosilicone additive of the formula:



wherein:

X is a number from 0 to 30;

Y is a number from 0 to 10;

each R<sup>1</sup> and R<sup>2</sup> is independently selected from the group consisting of alkyl moieties of from 1 to 18 carbon atoms, provided that, if Y is 0, at least one R<sup>2</sup> is Z;

$Z$  is  $R^3OB_nG$ ;

**R<sup>3</sup> is an alkylene moiety of from 1 to 4 carbon atoms;**

B is an alkylene oxide moiety selected from the group consisting of ethylene oxide, propylene oxide, butylene oxide, and mixtures thereof;

n is a number from 1 to 50 if, and only if, B contains ethylene oxide, otherwise n is a number from 1 to 10; and

G is selected from the group consisting of hydrogen, hydrocarbon moieties of from 1 to 18 carbon atoms, and acetyl.

**Amendment**  
**Appl. No. 09/769,388**

10. (Amended) The composition of claim 1 wherein the seed treatment formulation further comprises at least one ingredient selected from the group consisting of an active agent, a carrier, a surfactant, a dispersing agent, [a pigment or dye,] an anti-caking agent, and a foam-control agent.